

Remarks

The present Amendment amends claim 26 and adds 41. Upon entry of this Amendment, claims 1-41 will be pending. Accordingly, the application presents forty-one (41) claims, of which three (3) are in independent form (claims 1, 12, and 26). As such, Applicant expects claim fees of \$25.00 to be due upon filing this Amendment; for this and any additional fees which are deemed necessary following submittal of this Amendment, the undersigned hereby authorizes such fees to be charged to our deposit account, Deposit Account No. 061910.

In the Office Action, Examiner asserts that the application contains patentably distinct inventions and requires restriction between these inventions. The Office Action identifies the following two inventions as being patentably distinct: (I) claims 1-25; and (II) claims 26-40. By this restriction, Examiner advises Applicants to include an election of the invention to be examined even though the requirement may be traversed (37 CFR 1.143). As such, Applicants, through their attorney, hereby elect claims 1-25, which Examiner has identified as "invention I", with traverse.

Examiner states that Inventions II and I are related as process and apparatus for its practice. Per MPEP 806.05(e), the inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. As such, Examiner asserts that the apparatus can be used to destroy the information on the drives by heating the device beyond its functional limitations.

By this Amendment, claim 25 has been amended from "[a] method of achieving a correct operating temperature for one or more of a plurality of drives within a drive pack contained within a principal enclosure when an initial starting temperature is outside of a range of temperatures required for reliable operation of the drives" to "a method of heating one or more of a plurality of drives within a drive pack contained within a principal enclosure". As such,

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Applicants believe the process has been amended such that the apparatus as claimed cannot be used to practice another and materially different process as Examiner asserts.

In light of the amendments, Applicants traverse this restriction requirement on the ground that no serious burden on the Examiner exists. If the search and examination of an entire application can be made without serious burden, then it must be examined on the merits. M.P.E.P. §803. The subject matter that has been identified by the Examiner as representing two inventions, as now amended, is believed to be so related that a thorough search should encompass the subject matter of all claims of the application. In particular, both inventions generally relate to heating a plurality of drives contained in a housing within an enclosure. Thus, to avoid duplicative examination by the Patent Office and unnecessary delay and expense to Applicants, it is respectfully requested that examination be performed on the merits of all claims, rather than just those of invention I.

If the Examiner feels that prosecution of the present invention can be advanced by a telephone interview, then the undersigned would welcome a call at the phone number below. The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 061910.

Respectfully submitted,

Dated: 10/11/05


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Please grant any extension of time necessary for entry and charge any fee due to Deposit Account No. 06-1910.

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